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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

August 2, 1999

EX PARTE

Robert Atkinson  
Room 5-C356  
Federal Communications Commission  
The Portals Building  
445 12th Street, SW  
Washington, D.C. 20554

Re: CC Docket No. 98-141

Dear Mr. Atkinson:

I would like to bring to your attention, and to the attention of the Commission, what I consider to be gross mischaracterizations of fact in the "Joint Reply" of SBC Communications Inc. ("SBC") and Ameritech Corporation ("Ameritech"), filed July 26, 1999, in the above-referenced proceeding.

In its comments in this proceeding, OpTel, Inc. ("OpTel") pointed out that most MDU on-property networks continue to be configured to multiple demarcation points and that the proposed merger conditions are entirely inadequate to address this problem.<sup>1</sup> Indeed, OpTel expressed its concern that the inclusion of a merger condition that would allow SBC/ Ameritech to conduct a "trial" of very limited scope over several months or years could be used as an excuse for further delay when CLECs request access to MDU wiring. On that basis, OpTel opposed Proposed Condition XVIII in its current form.

In the Joint Reply, SBC and Ameritech raise three objections to OpTel's comments. Two of their objections, however, are based on plain misstatements

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<sup>1</sup> In the Matter of Conditions Proposed By SBC Communications Inc. and Ameritech Corporation for their Pending Application to Transfer Control, CC Docket No. 98-141, Comments of OpTel (filed July 19, 1999).  
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or misrepresentations of fact, and the third simply should be dismissed as patently unreasonable and anti-competitive.

First, SBC and Ameritech attempt to defend the proposed "trial" as necessary to "reveal the problems which may arise and permit the parties to work through any technical operations difficulties. It also will test the economic feasibility of offering these arrangements, which is especially important given the potentially high costs to carriers and the costs and inconvenience to customers in existing properties."<sup>2</sup>

The Commission should not be misled. SBC and Ameritech would have the Commission believe that reconfiguring MDU on-property wiring involves novel economic and technical questions. Nothing could be further from the truth.

In selected markets, where it has been ordered to do so by state regulators or has other compelling reasons to do so, SBC has worked with OpTel to reconfigure dozens of MDU properties to a single point of interconnection. Indeed, SBC's Texas state tariff includes numerous provisions relating to the pricing, terms, and conditions of reconfiguring MDU properties to a single point of interconnection.<sup>3</sup> The tariff provides that, although SBC does not in the normal course establish a single point of interconnection at MDU properties,<sup>4</sup> it will do so at an MDU owner's request or in other limited circumstances.<sup>5</sup> The tariff also describes the charges that will apply for any wiring reconfiguration required<sup>6</sup> and the way the wiring may be used or accessed after reconfiguration.<sup>7</sup>

In short, SBC knows quite well what is involved in reconfiguring MDU networks to a single point of interconnection, what the costs are, and what, if any, "technical operations difficulties" there are. As a matter of fact, SBC knows so well what is involved that, where it has agreed to reconfigure a property, it has provided OpTel with detailed time and cost estimates for the reconfiguration.

Moreover, given the relatively simple process involved in running a connecting line between the existing demarcation points on the property and a

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<sup>2</sup> Joint Reply at 69.

<sup>3</sup> See SBC "General Exchange Tariff" §§ 14, 15 (attached).

<sup>4</sup> Id. § 14.1.2.

<sup>5</sup> Id. § 14.4.4, 14.4.5.

<sup>6</sup> Id. § 14.4.2, 14.7.

<sup>7</sup> Id. § 15.

new single point of interconnection, a process with which SBC is quite familiar, the suggestion that MDU wiring reconfiguration may lead to significant "inconvenience to customers" is disingenuous in the extreme.<sup>8</sup> The residents presumably are not unreasonably "inconvenienced" when SBC reconfigures MDU wiring to a single point pursuant to its Texas state tariff and, because SBC continues to serve at least 50% of the residents in most, if not all, of the MDU properties that it already has reconfigured, SBC is familiar with the operational aspects of providing service through a single demarcation point. The only "inconvenience" involved is to SBC, which inevitably will lose customers on the property to one or more facilities-based carriers providing better service at a lower cost.

Ameritech, too, is familiar with the process of reconfiguring MDU on-property wiring to a single point of interconnection, and it has done so, on terms and conditions extremely favorable to it, on a number of occasions.

Thus, to suggest, as SBC and Ameritech do in the Joint Reply, that reconfiguring MDU wiring to a single point of interconnection raises new or untested issues requiring a "trial," is a gross distortion of fact.

Similarly misleading is the defense in the Joint Reply of paragraph 58 of the proposed conditions. Paragraph 58 provides that for 3 years "SBC/Ameritech shall install and provide new cables in a newly constructed or retrofitted single-building MDU ... in a manner that will permit CLECs a single point of interface."<sup>9</sup> As OpTel noted in its comments, there is no reason for the "single-building" limitation on the type of new and retrofitted MDU premises that will be configured to a single point of interconnection.

In the Joint Reply, SBC and Ameritech defend the limitation by asserting that they still need to "quantify the precise costs involved" in retrofitting campus-style MDUs and that it is "inefficient and impractical" to wire campus-style MDU properties in a pro-competitive fashion until "demand and pricing have been established."<sup>10</sup>

As noted above, nothing in the proposed "trial" is going to provide SBC or Ameritech with any information that they do not already have about the "precise costs involved" in wiring MDU properties so that new entrants can have

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<sup>8</sup> Similarly suspect is SBC's concern about the "high costs to carriers" of reconfiguration since, to date, SBC has required OpTel to pay the full cost of any such reconfiguration.

<sup>9</sup> Proposed Condition XVIII (emphasis added).

<sup>10</sup> Joint Reply at 71 & n.96.

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access to residents. Moreover, the suggestion that SBC and Ameritech should be permitted to continue to wire newly-built or retrofitted MDUs in the same anti-competitive configuration that has created the very problem at issue is unfathomable. The days of the ILEC monopoly are over — or, at least, they should be. Henceforth, any carrier that installs wiring in a new or retrofitted MDU should configure the wiring to permit competitive entry at a single point. That is how OpTel wires MDUs,<sup>11</sup> and it is how SBC/Ameritech should wire MDUs on a going-forward basis.

Finally, notwithstanding their purported concerns about the costs of MDU wiring reconfiguration, SBC and Ameritech object to OpTel's proposal that all carriers using the wiring on an MDU property should share in the cost of making the wiring competitively accessible. Instead, SBC and Ameritech argue that, the "full amount of [the] reconfiguration costs — which are incremental and caused solely by the new entrant seeking access — should properly be borne by the requesting carrier," *i.e.*, the first CLEC that seeks to compete on the property should pay the entire cost of reconfiguration.<sup>12</sup>

It is difficult to conceive of a more upside-down or anticompetitive policy in this regard. Naturally, the ILECs prefer to impose the full cost of reconfiguration on the first CLEC seeking access in order to raise their rivals' costs and discourage entry. That approach, however, is not consistent with the Commission's pro-competitive goals in this proceeding.

Further, the notion that the new entrant somehow "cause[s]" reconfiguration costs to be incurred is akin to blaming a doctor for her patient's illness — it simply ignores the true nature of the problem. ILEC MDU networks often are configured to foreclose competition on the property. It is true that, if there is going to be widespread competitive entry in the residential MDU market, the wiring on these properties is going to have to be fixed. That fact is a function of the way these properties were wired in the first place; the costs involved in doing the "fixing" are not "caused" by the CLEC that would compete on the property.

In sum, the Joint Reply includes no sound policy or legal argument in defense of proposed merger condition XVIII. Instead, SBC and Ameritech have

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<sup>11</sup> See Letter from Louis Brunel, OpTel, to Chairman Kennard (Aug. 11, 1998) ("[W]hen OpTel configures or reconfigures an MDU network, it often is required by state law to bring all inside wiring on the premises to a single demarcation point so that others (including the ILEC) can have non-discriminatory access to the MDU. Indeed, even in states in which OpTel is not required to do so, it uses a single demarcation point configuration.").

<sup>12</sup> Joint Reply at 70.

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resorted to mischaracterizations of the facts in an effort, apparently, to make the Commission believe that the relief requested by OpTel and other CLECs would involve novel legal and technical issues.

It simply is not so. SBC and Ameritech are resisting reconfiguration of MDU networks to a single point of interconnection for only one reason — they know it will result in real, facilities-based competition on MDU properties. The Commission should be concerned about the lengths to which SBC and Ameritech apparently will go to have their proposed merger approved while preventing that from happening.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael E. Katzenstein / v.k.f.", written over the typed name.

Michael E. Katzenstein  
Vice-President and General Counsel  
OpTel, Inc.

cc: Magalie R. Salas, Secretary  
Chairman Kennard  
Commissioner Ness  
Commissioner Tristani  
Commissioner Powell  
Commissioner Furchtgott-Roth  
Dorothy Atwood  
Linda Kinney  
Sarah Whitesell  
Kyle Dickson  
Bill Bailey  
Thomas Krattenmaker  
Michelle Carey  
William Dever  
James D. Ellis — Counsel for SBC Communications Inc.  
Kelly R. Welsh — Counsel for Ameritech Corporation

President - Texas Division  
Southwestern Bell Telephone Company  
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**14. TERMS AND CONDITIONS FOR THE LOCATION OF DEMARCATION POINTS**

(N)

**14.1 Definition of Demarcation Point**

14.1.1 The point of demarcation and/or interconnection between SWBT communications facilities and terminal equipment, protective apparatus or wiring at a subscriber's premises. SWBT-installed facilities at, or constituting, the demarcation point shall consist of wire or a jack conforming to Subpart F of Part 68 of the Commission's rules. "Premises" as used herein generally means a dwelling unit, other building or a legal unit of real property such as a lot on which a dwelling unit is located, as determined by SWBT's reasonable and nondiscriminatory standard operating practices. The "minimum point of entry" (MPOE) as used herein shall be either (1) the closest practicable point to where the wiring crosses a property line or (2) the closest practicable point to where the wiring enters a multiunit building or buildings. SWBT's reasonable and nondiscriminatory standard operating practices shall determine which of (1) or (2) shall apply. SWBT is not precluded from establishing reasonable classifications of multiunit premises for purposes of determining which of (1) or (2) above shall apply. Multiunit premises include, but are not limited to, residential, commercial, shopping center and campus situations.

(A) Single Unit Installations. For single unit installations existing as of June 9, 1994 and installations installed after that date the demarcation point shall be a point within twelve inches of the protector or, where there is no protector, within twelve inches of where the telephone wire enters the customer's premises.

(B) Multiunit Installations. (1) In multiunit premises existing as of June 9, 1994, the demarcation point shall be determined in accordance with SWBT's reasonable and nondiscriminatory standard operating practices. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the customer's premises than a point twelve inches from where the wiring enters the customer's premises.

(2) In multiunit premises in which wiring is installed after June 9, 1994, the multiunit premises owner shall determine the location of the demarcation point or points. The multiunit premises owner shall determine whether there shall be a single demarcation point location for all customers or separate such locations for each customer. Provided, however, that where there are multiple demarcation points within the multiunit premises, a demarcation point for a customer shall not be further inside the customer's premises than a point twelve inches from where the wiring enters the customer's premises.

14.1.2 At this time, SWBT has elected not to establish a practice of placing the demarcation point at the MPOE for multiunit premises. However, at the customer's request, SWBT will place the demarcation point at the MPOE in existing installations, and as appropriate, in new installations. SWBT will relocate multiple demarcation points to a single demarcation point at an MPOE in a manner that minimizes any resultant charges or other adverse impact to either building owners or customers.

14.1.3 If conforming to the twelve inch limitation is unrealistic or technically impossible, the demarcation point will be the most practicable MPOE.

(N)

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**14. TERMS AND CONDITIONS FOR THE LOCATION OF DEMARCATION POINTS (Cont'd) (N)**

**14.2 Classification of Installations**

**14.2.1 Installations shall be classified as one of the following:**

(A) Single unit installations are facility arrangements configured to accommodate a single customer. All other facility arrangements are classified as multiunit installations. Single unit installations include: single family dwellings; single business premises; and other single customer installations on one property, undivided by public thoroughfares (e.g., educational, industrial, governmental, or medical premises).

(B) Multiunit installations are facility arrangements configured for either more than one customer in a building or more than one premises on a legal unit of property. Multiunit installations include: multifamily residential apartments, condominiums, townhouses or duplexes; multitenant commercial, shopping center, and campus situations; and any other facility arrangement not classified as single unit.

**14.2.2 With regard to premises for any structure that is built to be mobile (e.g., mobile homes and recreational vehicles), SWBT may place the demarcation point on a post or pole at or near the pad where such structure is intended to rest. Boat docks, boats, recreational vehicle parks, and similar premises may be treated by SWBT as single unit installations with a single demarcation point. For boat docks the demarcation point may be placed on shore. (N)**

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**14. TERMS AND CONDITIONS FOR THE LOCATION OF DEMARCATION POINTS (Cont'd) (N)**

**14.3 Location of Demarcation Points**

- 14.3.1 In single unit installations and within individual units of a multiunit installation with multiple demarcation points, the demarcation point for all regulated services shall be a location on the customer's side and within twelve inches of the protector or, absent a protector, within twelve inches of the entry point to the customer's premises. If conforming to the twelve inches is unrealistic or technically impossible, the demarcation point shall be at the most practicable minimum point of entry.
- 14.3.2 The FCC has authorized, and the PUC has approved, that the demarcation point may be located at a point other than the minimum point of entry where it has already been established by the presence of network equipment as of June 9, 1994, and where neither the customer nor the premises owner requests that the equipment be relocated to the minimum point of entry. However, the demarcation point may be moved in accordance with paragraph 14.4, following.
- 14.3.3 For a multiunit installation, the property owner shall make the final decision on whether it shall have one demarcation point per customer premises or a single demarcation point for the entire building or campus.
- 14.3.4 Once an installation is arranged for a single demarcation point at the minimum point of entry, it will remain so configured for the life of the building or campus. For example, once a multiunit building has a single demarcation point established at a minimum point of entry, SWBT will not establish separate demarcation points within that building, except as otherwise authorized under SWBT's tariffs.
- 14.3.5 Buildings undergoing renovation requiring the complete removal of SWBT facilities will be considered new installations.
- 14.3.6 When a campus is intersected by a public thoroughfare, SWBT may (at the property owner's request) provide a demarcation point in each segment of the campus created by the intersection of the public thoroughfare.
- 14.3.7 The demarcation point will be placed at the customer's premises at a location which is accessible to both the customer and SWBT, provides the proper environment, and that is common to all services.
- 14.3.8 Diverse routing from a serving or alternate central office is provided under the Special Construction section of the Access Tariff. The alternate demarcation point for the diverse route shall meet the normal demarcation point requirements of 14.3.1 through 14.3.7 preceding.
- 14.3.9 Upon request, the demarcation point may be placed inside of a building or other structure, subject to applicable charges on a time and material basis. These charges will be based upon the work necessary to locate the demarcation point inside rather than outside the building or other structure, and will apply only when the demarcation point would have otherwise been located outside the building or other structure pursuant to SWBT's standard operating practices. (N)



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**14. TERMS AND CONDITIONS FOR THE LOCATION OF DEMARCATION POINTS (Cont'd) (N)**

**14.4 Relocation of Demarcation Points**

- 14.4.1 Relocations of network interfaces or demarcation points requested by the customer or property owner, other than as specified in the tariff, will be at the rates and conditions provided in the "Service Charges - Connections, Moves and Changes" section of the General Exchange Tariff. Charges to relocate demarcation points may apply in accordance with paragraph 14.7, following.
- 14.4.2 In multiunit installations built after June 9, 1994 where the property owner initially chooses multiple demarcation points, and later the same or subsequent owner requests the establishment of a single demarcation point for the building or campus, a charge will apply that is equal to the structural value of the stranded facilities on the property. Upon full payment of such charge, ownership of those facilities will pass to the property owner. Subsequent maintenance or removal of the facilities beyond the single demarcation point will be the responsibility of the property owner. An "allowed use" option (see para. 15) will be available to multiunit property owners at any time nine years after SWBT's last cable reinforcement in the building. The purchase requirement will not apply if a property owner requests "allowed use".
- 14.4.3 Upon unauthorized attachment to SWBT-owned facilities, a new demarcation point may be established in accordance with 5.6 of this tariff. However, SWBT will not establish a single demarcation point at the minimum point of entry if it is determined that an unauthorized attachment was inadvertent, and is subsequently removed.
- 14.4.4 When, as a condition of service, property owners impose unreasonable terms and conditions on SWBT's ability to: 1) terminate its services at a building; or 2) provide service to its customers within a building, SWBT, upon giving the property owner and all tenants six (6) months written notice, may establish a single demarcation point at the minimum point of entry at no cost to the property owner or tenants. All facilities on the property owner's side of the demarcation point will be subject to the "allowed use" provisions of paragraph 15.1, following. (N)

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**14. TERMS AND CONDITIONS FOR THE LOCATION OF DEMARCATION POINTS (Cont'd) (N)**

**14.4 Relocation of Demarcation Points (Cont'd)**

14.4.5 In addition to the provisions of 14.4.4, SWBT shall relocate existing demarcation points to a single demarcation point at a minimum point of entry under any of the following conditions:

- (A) At the property owner's request;
- (B) When a customer or property owner attaches to SWBT-owned cable without authorization;
- (C) When SWBT facilities exhaust (i.e., when additional facilities must be placed to provide service);
- (D) When SWBT facilities expire (i.e., when facilities become uneconomical to maintain).

14.4.6 Condition (A) applies to both single and multiple unit installations. Condition (B) applies to single unit installations and to individual units of a multiple unit installation. Conditions (C) and (D) apply to single unit installations. Multiple unit installations may (but are not required to) establish a single demarcation point at a minimum point of entry under (C) or (D) above.

14.4.7 If SWBT otherwise determines through routine service order activity or customer premises work that a particular installation constitutes a single unit installation with one or more demarcation points not at the minimum point of entry, SWBT will initiate a contact with the customer or property owner to determine how and when SWBT will relocate the demarcation point to the minimum point of entry.

- (A) SWBT will allow the customer or building owner not more than twelve (12) months to prepare to assume use and control of SWBT facilities on the customer's or property owner's side of the minimum point of entry.
- (B) The customer or building owner may request that SWBT establish a single demarcation point at the minimum point of entry at any time during the 12 month period, provided SWBT is given at least thirty (30) days notice prior to the requested effective date of the single demarcation point. If network equipment must be relocated, SWBT must be provided at least ninety (90) days notice.
- (C) If the nature of the single unit installation changes prior to the establishment of a single demarcation point at the minimum point of entry, then the options available to the property owner will be determined by the status of the installation at the time the single demarcation point would otherwise have been established; e.g., if a single tenant building becomes a multitenant building before the single demarcation point is established, then the building owner will have all of the options available as are available to owners of other multiunit installations.

(N)

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**14. TERMS AND CONDITIONS FOR THE LOCATION OF DEMARCATION POINTS** (Cont'd)

(N)

**14.5 Regulated Intra/Interbuilding Facilities**

14.5.1 Additional facilities will be provisioned as required for regulated services to previously established demarcation points, to a maximum of one demarcation point per customer premises (normally at the minimum point of entry). No additional regulated facilities will be provided beyond the demarcation point located per 14.3, or relocated per 14.4, preceding.

14.5.2 Customer use of spare capacity in SWBT-owned house, riser or interbuilding cable on their premises and on SWBT's side of the demarcation point(s) will be as specified in Section 2 of the Private Line Service Tariff.

**14.6 Responsibilities of Customers**

14.6.1 The customer shall provide necessary space for SWBT equipment and facilities installed on the customer's premises and without cost to SWBT so long as such equipment and facilities may be used or useful in providing any customer service. The customer shall also make necessary arrangements in order that SWBT will have access to such space at reasonable times for maintaining, testing, repairing, or removing SWBT services.

14.6.2 Customers and/or property owners are responsible for the operation, maintenance, repair, and replacement of cable and wire on the their side of the demarcation point. After the establishment of a demarcation point, SWBT will neither install, test, repair, nor remove cable on the customer side of the demarcation point, except on a nonregulated basis.

14.6.3 Customers and/or property owners are responsible for cable pressurization on the non-network side of the demarcation point. SWBT will not be responsible for pressurizing any cable for which customers and/or property owners have "allowed use" (see 15.1). In the event customers and/or property owners request the "allowed use" of a pressurized cable (and the cable otherwise satisfies the "allowed use" conditions of 15.3), then SWBT will seal the pressurization on the network side of the demarcation point.

(N)

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- 14. TERMS AND CONDITIONS FOR THE LOCATION OF DEMARCATION POINTS (Cont'd) (N)**
- 14.7 Application of Charges to Relocate Demarcation Points to the Minimum Point of Entry**
- 14.7.1 If the customer or building owner requests that a demarcation point or points be relocated to a single demarcation point at a minimum point of entry, or otherwise attaches to SWBT-installed cable on SWBT's side of an existing demarcation point:
- (A) A "make ready" charge will apply if SWBT must rearrange or install new cable facilities in order to establish the single demarcation point.
  - (B) The appropriate service charges or nonrecurring charges will apply if sufficient cross-connect facilities do not exist at or near the minimum point of entry or network equipment (if any) must be relocated to the minimum point of entry.
  - (C) Charges will not apply if sufficient cross-connect facilities exist at or near the minimum point of entry and network equipment (if any) is located at the minimum point of entry.
- 14.7.2 If SWBT facilities exhaust or expire within a single unit installation, SWBT will establish a single demarcation point at the minimum point of entry at no charge.
- 14.7.3 If SWBT facilities exhaust or expire within a multiple unit installation, SWBT will, upon notice to and acceptance by the property owner, establish a single demarcation point at the minimum point of entry at no charge. In the alternative, SWBT will maintain multiple demarcation points within the multiunit installation and reinforce or replace its facilities at no charge.
- 14.7.4 Unless otherwise requested by the customer or property owner, SWBT may continue to provide network equipment associated with designed services such as private line and special services. The demarcation point for such services existing as of June 9, 1994 shall not be moved so long as such network equipment remains in place, and no additional designed services are installed that would require cable or facility additions. The demarcation point for such services shall be on the customer side of the network equipment. (N)

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**15. CUSTOMER ACCESS TO THE TELEPHONE NETWORK**

(N)

**15.1 Allowed Use**

- 15.1.1 Customers are allowed to connect, through direct attachment, simple customer premises wiring to SWBT-installed wiring at points up to and on the customer's side of the demarcation point. Complex premises wiring must be attached to the network through a SWBT-installed jack.
- 15.1.2 Customers are allowed to reconfigure, rearrange, and remove SWBT-installed wiring on the customer's side of the demarcation point. Customers may not attach to, or otherwise directly access, SWBT's protector.
- 15.1.3 Property owners are allowed to connect, through direct attachment, simple customer premises wiring to SWBT installed wiring at points up to and on the property owner's side of the demarcation point. Complex premises wiring must be attached to the network through a SWBT-installed jack.
- 15.1.4 Property owners are allowed to reconfigure, rearrange, and remove SWBT-installed wiring on the property owner's side of the demarcation point. Property owners may not attach to, or otherwise directly access, SWBT's protector.

**15.2 Limitation of Liability**

- 15.2.1 After a demarcation point is established at a minimum point of entry, SWBT-installed house and riser cable on the customer or property owner side of that demarcation point is subject to "allowed use" in accordance with 15.1.
- 15.2.2 SWBT shall in no way be liable for any harm, damage, service outage or degradation of service, whether intentional or inadvertent, as a result of customer, property owner, or other third-party access to or use of SWBT-installed house and riser cable on the customer or property owner side of a demarcation point. SWBT's liability, if any, for gross negligence or willful misconduct is not limited by this tariff.

(N)

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**15. CUSTOMER ACCESS TO THE TELEPHONE NETWORK (Cont'd)**

(N)

**15.3 Conditions on Allowed Use**

15.3.1 SWBT cable and facilities qualify for "allowed use" by a property owner in either single or multiunit installations if the following conditions are satisfied:

- (A) There are no other customers (other than those located in the multiunit installation subject to the allowed use) served by pairs in the same cable sheaths serving the property owner. (1)
- (B) There are no services within the cable sheath that require network equipment; however, an agreement by the property owner to pay for the relocation of the network equipment to a minimum point of entry will satisfy this condition.
- (C) There are no other cables in the same duct or buried along the same easement that the property owner wishes to use that cross rights-of-way to serve other SWBT customers. (See 15.3.2 regarding right-of-way.)
- (D) There are no other cables on the same pole that the property owner wishes to use that cross rights-of-way to serve other SWBT customers; however, the property owner's agreement to a pole attachment will satisfy this condition. (See 15.3.2 regarding right-of-way.)

(N)

- (1) SWBT recognizes sharing among state agencies and other political subdivisions as a single unit installation for demarcation purposes. Such sharing is subject to the Joint User provisions of this tariff. SWBT will recognize a multiunit installation consisting solely of state agencies (not other political subdivisions) as a single unit installation for demarcation purposes. Where facility rearrangements are necessary to establish a single demarcation point, SWBT will cooperate with the sharing state agencies and local political subdivisions to determine the lowest rearrangement costs.

(N)

(N)

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**15. CUSTOMER ACCESS TO THE TELEPHONE NETWORK (Cont'd)**

(N)

**15.3 Conditions on Allowed Use (Cont'd)**

- 15.3.2 As SWBT cannot transfer its right-of-way authority, the property owner must obtain the necessary right-of way from the appropriate authority under the circumstances in 15.3.1(C) and (D).
- 15.3.3 In the event of shared tenant service (STS) or other shared service arrangements pursuant to the Joint User provisions of this tariff in a multiunit installation, as a condition for "allowed use", the STS or other joint use provider agrees to allow tenants reasonable access to the facilities on the non-network side of the demarcation point as necessary to subscribe to service directly from SWBT.
- 15.3.4 SWBT cable and facilities that do not qualify for "allowed use" in either single or multiunit installations under the provisions of 15.3.1 will not be made available for "allowed use" and SWBT will continue to provide service to customers served by the cable and facilities. However, the property owner may request SWBT to rearrange its service and facilities to qualify them for "allowed use". The property owner will be responsible for all such costs.
- 15.3.5 New multiunit installations (i.e., those established after June 9, 1994) may elect to have the "allowed use" of SWBT installed cable and facilities at any time nine years after SWBT's latest cable reinforcement in that installation. "Allowed use" of SWBT-installed cable and facilities in new multiunit installations will not be available until that time.
- 15.3.6 "Allowed use" does not convey title to SWBT-owned cable and facilities. Cable and facilities subject to "allowed use" remain the property of SWBT. Cable and facilities subject to "allowed use" will not be retired until purchased or removed. SWBT-owned cable and facilities may be purchased in accordance with the provisions of paragraph 16.

(N)

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**16. SALES AND REMOVALS OF SWBT-OWNED INTER/INTRA BUILDING CABLE**

(N)

**16.1 General**

- 16.1.1 SWBT will offer for sale its in-place inter and intrabuilding cable to any premises owner who desires to purchase the cable in lieu of either providing their own, paying the tariff specified charges, or assuming control under "allowed use" (see 15.1). Premises owners who inquire about cable purchases will be apprised of their rights to freely access, attach to, rearrange, or remove any SWBT inter or intrabuilding cable on their side of the minimum point of entry.
- 16.1.2 On a given premises, only that portion of inter and intrabuilding cable which can be used exclusively by purchasers and their tenants, which is free of regulated network equipment, and which falls on the customer's or property owner's side of the minimum point of entry shall be subject to "allowed use" or offered for sale. Inter or intrabuilding cable which is necessary or useful for SWBT in its service to other customers or for services provided by SWBT, which is not free of all regulated network equipment, or which falls on SWBT's side of the minimum point of entry shall not be subject to "allowed use" nor offered for sale.
- 16.1.3 Cable and facilities that do not qualify for sale or "allowed use" as a result of the provisions of 16.1.2 may be rearranged pursuant to 15.3.4 in order to qualify the cable and facilities for sale or "allowed use".
- 16.1.4 Joint ownership of portions of plant (e.g., splitting ownership of pairs within a cable or terminal) will not be considered. SWBT easements and rights-of-way cannot be included as part of sale nor made available under "allowed use". Customers or property owners who assume control either by purchase or under "allowed use" must obtain approval for the necessary easements or rights-of-way from the appropriate authorities prior to the transfer of control (i.e., prior to execution of a contract of sale or establishment of a single demarcation point at a minimum point of entry).
- 16.1.5 Cable will be sold (or offered under "allowed use") as is, with neither express nor implied warranties. Upon assuming control (either under "allowed use" or by purchase), customers or property owners become responsible for maintenance and repair of the facilities; at facility exhaust, customers or property owners are responsible for providing new facilities at their own expense.
- 16.1.6 The inter and intrabuilding cable to be sold shall be sold at structural value. The inventory of plant to be sold will be determined based on the purchaser's requirements. Any cable which purchasers do not need will be removed or disabled.
- 16.1.7 SWBT will provide, at no additional charge, copies of only such cable records as may exist. Upon request, SWBT will develop additional records of SWBT-installed cable for customers or property owners as part of a sale or assumption of control under "allowed use". The requesting customer or property owner will be charged for the reasonable costs of producing such additional records.

(N)